

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 10-1856

United States of America,

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Appellee,

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Appeal from the United States

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District Court for the

v.

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Eastern District of Arkansas.

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Anthony Alardin,

*

[UNPUBLISHED]

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Appellant.

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Submitted: August 26, 2010

Filed: September 1, 2010

Before BYE, BOWMAN, and COLLOTON, Circuit Judges.

PER CURIAM.

Anthony Alardin appeals from the order of the District Court¹ denying his motion for a certificate setting aside his 1983 criminal conviction under the Federal Youth Corrections Act (FYCA), 18 U.S.C. § 5021 (1982) (repealed 1984). We grant Alardin's motion to file a supplemental brief. After carefully considering the parties' arguments and reviewing the record, we conclude that the District Court properly denied Alardin's motion because he did not receive an early unconditional discharge from his original term of probation or from his subsequent two-year probation-

¹The Honorable James M. Moody, United States District Judge for the Eastern District of Arkansas.

revocation sentence. See 18 U.S.C. § 5021(a) (requiring the issuance of a certificate setting aside a FYCA conviction upon the Parole Commission's unconditional discharge of the committed youth offender before the expiration "of the maximum sentence *imposed upon him*" (emphasis added)); id. § 5021(b) (requiring the issuance of a certificate setting aside a FYCA conviction when a youth offender has been placed on probation and the court grants him an unconditional discharge from probation before "the expiration of the maximum period of probation *theretofore fixed by the court*" (emphasis added)); Tuten v. United States, 460 U.S. 660, 666 (1983) (noting that the set-aside provision in § 5021(b) applies only to youth offenders discharged before their original probationary terms have expired). Accordingly, we affirm the District Court.
